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Chairman: Mr. Escovar SALOM (Venezuela)

CONTENTS

AGENDA ITEM 150: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued)

AGENDA ITEM 120: HUMAN RESOURCES MANAGEMENT

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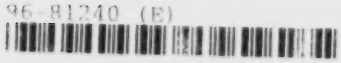

The meeting was called to order at 10.10 a.m.

AGENDA ITEM 150: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued) (A/51/33 and A/51/317)

1. Mr. ROSENSTOCK (United States of America), referring to the question of the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter (A/51/33, chap. III), welcomed the fact that, pursuant to General Assembly resolution 50/51, further measures had been taken to enhance the transparency of the Security Council sanctions committees, which had given third States seeking assistance greater access to those committees. His delegation welcomed the report of the Secretary-General on the question (A/51/317), which detailed the steps taken and planned by the Secretariat in response to paragraphs 3 and 4 of that resolution, including the development of better assessment methodology and the provision of more accurate and timely information and assessments.

2. He noted the efforts made in implementation of paragraph 6 of General Assembly resolution 50/52, which invited participation by the United Nations specialized agencies and intergovernmental organizations in the work of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization. As a result of actions taken by the Security Council, its Committee established pursuant to resolution 724 (1991) concerning Yugoslavia, and the Secretary-General, funds for infrastructure projects in the States bordering on Serbia and Montenegro had been provided by Member States and regional organizations. His Government's contribution to that fund so far totalled some $5 million.

3. Similarly, in the case of Iraq, consultations under Article 50 of the Charter had resulted in a statement issued by the President of the Security Council, calling on States and international financial institutions to take the special economic problems of third States into account in developing their technical, financial and material assistance programmes. Several countries, including the United States of America, had made contributions to the Gulf Crisis Financial Coordination Group established in September 1990 by major donors and creditors for the purpose of channelling assistance to the most seriously affected countries. Substantial amounts had been disbursed to those States through balance-of-payment grants, debt relief and concessional loans.

4. The Secretary-General's report had, in conjunction with actions taken by the Security Council and the sanctions committees, focused the Organization's attention on the issue and dealt realistically with the underlying concerns. The United States delegation therefore believed that no further procedural arrangements were necessary and that the question should thereafter be addressed through the normal channels. Moreover, the need for strict enforcement of sanctions regimes and of Security Council prerogatives must be kept firmly in mind in any further discussion of the effects of sanctions on third States.

5. With regard to the question of the status of the Repertory of Practice of United Nations Organs and of the Repertoire of the Practice of the Security Council (A/51/33, chap. VI), his delegation concurred fully with many delegations regarding the importance attached to those publications and looked forward to the Secretary-General's report on the question.

6. Turning to the proposal by Sierra Leone for the establishment of a dispute settlement service offering or responding with its services early in disputes (A/51/33, chap. IV), he reaffirmed his delegation's support for measures designed to give effect to the dispute settlement provisions contained in Article 33 of the Charter. The possibility of establishing a list of mediators merited further consideration, provided that there was sufficient commitment to the idea to ensure that such a list would actually be used.

7. With regard to the proposals concerning the Trusteeship Council (A/51/33, chap. V), the report of the Secretary-General (A/50/1011) showed that a majority of Member States supported the abolition of the Council. In the spirit of reform that currently pervaded the Organization, it was appropriate and timely to undertake a review of the Charter provisions dealing with the Trusteeship Council with a view to their deletion. As in the case of the "enemy State" clauses, elimination of those provisions could and should be a straightforward legal exercise. There thus appeared to be no impediment to proceeding along the lines proposed by the Secretary-General.

8. Similar considerations applied to the future work of the Special Committee (A/51/33, chap. VII). The centre of action on many issues, particularly those relating to reform of the United Nations, had shifted to other forums within the Organization. The Romanian delegation and others had suggested that the Special Committee could play a role in providing technical legal input on those issues. He questioned, however, whether that was sufficient justification for the Special Committee to hold inter-sessional meetings outside the framework of the Sixth Committee. His delegation endorsed the Bulgarian suggestion that the Special Committee should be available to deal with select issues and that inter-sessional meetings should be convened if and when the General Assembly considered that a sufficient number of questions had been referred to it in a particular year. It might also be possible for some of those issues to be considered in the Sixth Committee. Other alternatives included holding biennial sessions of the Special Committee or scheduling brief meetings of several days' duration so that the Special Committee could survey any issues referred to it by other forums and make recommendations to the Sixth Committee.

9. Mr. ELARABY (Egypt) said that the significant accomplishments of the Special Committee in recent years relating to the maintenance of international peace and security and the peaceful settlement of disputes affirmed the need to ensure that its work continued. With regard to implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter, no appropriate solutions had yet been found to deal with the effects of economic sanctions against third States. However, the positive measures set out in General Assembly resolution 50/51, particularly paragraphs 1 and 3, represented a first step. The Secretary-General's latest report on the subject (A/51/317) described the arrangements made in the Secretariat to implement paragraph 3 of

that resolution and listed possible guidelines on technical procedures to be used by the Secretariat in that connection.

10. In the light of the Secretary-General's previous report on the topic (A/50/361), he believed that additional measures could be taken to minimize the effect of such sanctions on third States, such as implementing Article 31 of the Charter with a view to affording an opportunity to States having strong economic ties to States against which sanctions had been imposed to apprise the Security Council of the potential impact of such sanctions. International and regional financial institutions could also be called upon to adopt special programmes aimed at addressing the damage suffered by third States as a result of sanctions.

11. The Special Committee should continue to devote attention to the issue and should meet for two weeks to complete its work, unless new issues made it necessary to revert to a three-week session.

12. The working paper submitted by the Russian Federation on the question of sanctions (A/51/33, para. 42) contained significant ideas and should receive thorough consideration from the Special Committee at its next session. The paper also addressed the impact of sanctions on the people of the affected State and means of ensuring the minimum needs for survival, as well as measures to prevent deterioration of the humanitarian situation in such cases. The importance of that issue had recently been felt in connection with the implementation of Security Council resolution 986 (1996) aimed at alleviating the suffering of the Iraqi people after more than six years of sanctions.

13. Noting that the work of the Special Committee sometimes overlapped with that of working groups of the General Assembly concerned with United Nations reform, he endorsed paragraph 144 of the Special Committee's report (A/51/33). He also believed that the revised proposal submitted by the Libyan Arab Jamahiriya with a view to strengthening the role of the United Nations in the maintenance of international peace and security contained new ideas which merited consideration at the Special Committee's next session. In addition, his delegation was willing to discuss the proposal by Sierra Leone concerning the establishment of a dispute settlement service offering or responding with its services early in disputes in the light of the agreement reached at the last session that the delegation of Sierra Leone, in cooperation with other interested delegations, and in particular that of Guatemala, should prepare a revised version of the proposal that would take account of the comments made in the Special Committee.

14. Ms. WONG (New Zealand) noted that the Special Committee's most recent session was the first one at which it had been open to all Member States. Her delegation welcomed that step as a move towards fundamental democratization of the Organization. The notion that an enlarged membership would spell doom for the Special Committee was belied by the reality of its meagre accomplishments thus far. Until the Special Committee adopted a meaningful agenda, there was unlikely to be significant interest in its work.

15. Unfortunately, with the exception of the United States of America in the case of the Trusteeship Council's future, the permanent members of the Security

Council were reluctant to embark on any reform or review of the Charter. Unless the necessary intellectual effort was made to revitalize the work of the Special Committee, the Committee should be disbanded. That was especially true given that more constructive work was now being done in ad hoc working groups. Several delegations had made interesting proposals concerning future directions for the Special Committee's work; nevertheless, her delegation did not foresee a significant role for the Special Committee in the reform of the United Nations. It was instructive that no delegation had suggested that the Special Committee should consider the latest proposal for amending the Charter which had arisen in the working group on reform of the Security Council. The delegation sponsoring that proposal was undoubtedly aware that other issues referred to the Special Committee, such as the question of assistance to third States affected by the implementation of sanctions, had been effectively shelved.

16. As to the status of the Repertory and the Repertoire, her delegation understood that no resources were available for the issuance of the two publications. The fact that the most recent volumes of the Repertory and of the Repertoire dated from 1979 and 1988, respectively, prompted her delegation to question whether the two publications were of any value whatsoever. For nearly two decades, the New Zealand mission to the United Nations had, despite limited resources, produced the United Nations Handbook. If the Repertory and the Repertoire were to be continued, her delegation supported their being produced with external support.

17. The time had come to take a hard look at the Organization's less fruitful and more ritualistic endeavours. There might be virtue in maintaining the Special Committee as a standing body which offered opportunities for serious negotiation when it was required and when a consensus existed on making progress.

18. Ms. SINJELA (Zambia), referring to chapter III of the Special Committee's report (A/51/33), said that although other United Nations organs were also dealing with the question of assistance to third States affected by the application of sanctions, her delegation supported its continued consideration by the Special Committee. There was no basis for considering the imposition of sanctions separately from the humanitarian concerns which they generated. The reason why there had been a call for consultations with third States likely to be adversely affected by the application of sanctions was that sanctions had a major impact on the economies and the population of third States. Unless that reality was taken into account, there was a risk that legal solutions would be proposed which could not be implemented in practice.

19. Her delegation supported the right of third States to compensation and the establishment of a trust fund to finance such compensation. The Security Council would determine which States were and were not entitled to compensation in the light of specific circumstances.

20. Her delegation also supported the proposal to establish a mechanism for consultations between third States and the donor community in order to assess and seek solutions to the problems of affected States. Such consultations should, however, complement the efforts of the Security Council and take place on a bilateral basis between the affected State and the donor community. The

same applied to the international financial institutions; in that context, her delegation welcomed and supported the proposal contained in paragraph 3 (d of General Assembly resolution 50/51. While the notion of alternative, non-financial measures of assistance was worth considering, her delegation did not believe that its implementation would be feasible.

21. Sanctions were a useful tool for responding to threats to peace and acts of aggression, but they should not be used as the primary means of settling international disputes. The Security Council should, as far as possible, have recourse to the dispute settlement mechanisms already in place. Furthermore, sanctions should not be imposed without consulting the parties involved, including third States likely to be affected. Her delegation supported the suggestion that resolutions imposing sanctions should provide for periodic reviews of their implementation, which would make it possible to assess the effectiveness of sanctions and the need for adjustments.

22. Turning to chapter IV of the Special Committee's report, she said that her delegation, while welcoming the proposal of Sierra Leone for the establishment of a dispute settlement service, saw no need for a permanent mechanism. Nevertheless, her delegation looked forward to further discussion of the question at the Special Committee's next session.

23. With regard to chapter VI of the report, her delegation, while fully cognizant of the difficulties faced by the Secretariat in its efforts to publish and update the Repertory and the Repertoire, regretted that they had been discontinued. It was to be hoped that ways of resuming their publication could be found.

24. With regard to the identification of new subjects for consideration in the future work of the Special Committee (A/51/33, chap. VII), her delegation supported the suggestion that the Special Committee could contribute to the ongoing discussion on the reform of the United Nations, in particular, by providing legal advice on questions concerning amendments to the Charter or the rules of procedure of various United Nations bodies.

25. Mr. POLITI (Italy) said that his delegation fully concurred with the views expressed by the representative of Ireland on behalf of the European Union concerning the implementation of Charter provisions related to assistance to third States affected by the application of sanctions and the status of the Repertory and of the Repertoire. His delegation wished to reaffirm the special importance it attached to finding adequate and equitable solutions to the problems of third States affected by the application of sanctions.

26. With regard to the peaceful settlement of disputes between States, the proposal submitted by Sierra Leone had given rise to a useful discussion. The proposed dispute settlement service was intended to be a permanent mechanism based on the flexible use of one or more of the options provided for in Article 33 of the Charter. That solution considerably reduced the risk of duplicating procedures already envisaged by specific international instruments, while providing an institutional facility for dispute prevention and settlement where other procedures were not already available to the parties concerned. His delegation looked forward to the preparation by Sierra Leone and Guatemala of a

revised version of the proposal that would take account of the comments made in the Special Committee.

27. With regard to the proposals concerning the Trusteeship Council, his delegation reaffirmed its support for the Maltese proposal designed to strengthen the mandate of the Council as the repository of the common heritage of mankind. The question required further examination, either in the Special Committee or in the General Assembly's Open-ended High-level Working Group on the Strengthening of the United Nations System.

28. The issue of the future work of the Special Committee had been discussed extensively in the light of the Special Committee's allegedly modest accomplishments and the need to revitalize its functions and role within the institutional framework of the United Nations. While his delegation shared those concerns, it believed that in recent years the Special Committee had achieved important results, in particular, in the areas of the peaceful settlement of disputes and the enhancement of cooperation between the United Nations and regional organizations. He welcomed the decision to open the Special Committee to participation by all Member States.

29. The Special Committee could continue to make a significant contribution to the strengthening of the United Nations. The draft declaration on peacekeeping missions and mechanisms for the prevention and settlement of crises and conflicts submitted by the Russian Federation could be the subject of fruitful reflection. The duration of the Special Committee's session should be determined each year in the light of the amount of work assigned to it, so as to make the best use of available resources. The suggestion that the Special Committee should be entrusted with the task of assisting the General Assembly's working groups in dealing with legal issues pertaining to reform of the United Nations required further study.

30. Mr. BOHAYEVSKY (Ukraine) said that his country had sustained direct losses estimated at $4.5 billion as a result of its strict and consistent implementation of sanctions in compliance with Security Council resolutions. Since sanctions were imposed on behalf of all Member States, it was unfair that only a handful of States - primarily the neighbours or major trading partners of the target countries - should suffer the prolonged effects of their implementation.

31. Ukraine attached great importance to the establishment of a mechanism for consultation between the Security Council and the countries which were or might be affected by the implementation of sanctions. The role of international financial and trade institutions and United Nations development agencies should be explored further, as should proposals which did not require additional financing. His delegation supported the establishment of a standing Security Council sanctions committee to research the effects of sanctions regimes, monitor their observance, estimate losses to third States by means of a unified methodology developed in line with the recommendations contained in the Secretary-General's report (A/51/317), and find ways to minimize such losses.

32. He regretted that the Secretary-General's report did not adequately address the need to explore innovative and practical measures of assistance to affected

third States, as requested in General Assembly resolution 50/51. That resolution should be implemented promptly, and the proposals put forward at previous sessions of the Special Committee regarding the implementation of the provisions of the Charter should be studied in depth by both the Sixth Committee and the Special Committee. He supported the proposal to establish a working group of the Sixth Committee to address the issue, as part of the organizational framework recommended in paragraph 55 of the Special Committee's report (A/51/33).

33. The Special Committee was the most appropriate forum for addressing the legal aspects of the revitalization and reform of the United Nations. He supported the inclusion in its agenda of the consideration of proposals to enhance the role of the International Court of Justice. Lastly, his delegation felt that the Special Committee should hold its session later in the year to lengthen the interval between the Sixth Committee's session and that of the Special Committee, so that delegations could be better prepared to deal with the issues on the latter's agenda.

34. Mr. ENAYAT (Islamic Republic of Iran) said that as the Special Committee had prepared a number of important instruments relating to the maintenance of international peace and security and the peaceful settlement of disputes, it should be actively involved in the current discussions on those questions. The report of the Secretary-General on assistance to third States affected by the application of sanctions (A/51/317) analysed that issue in the light of economic globalization and the varying nature of sanctions regimes, and reaffirmed the role of the Administrative Committee on Coordination with respect to information on international economic and other assistance available to third States.

35. The proposed abolition of the Trusteeship Council would require an amendment to the Charter, which would involve a lengthy procedure. Malta's proposal to entrust the Council with the task of safeguarding the "global commons" would completely change the Council's structure and mandate. However, it could not be convincingly argued that existing United Nations machinery for environmental protection was adequate.

36. Ms. VARGAS de LOSADA (Colombia) said that her country attached great importance to the work of the Special Committee, since that body had been established at Colombia's initiative. However, it could only be effective if it was not excluded from participation in the process of reforming the United Nations.

37. Although General Assembly resolution 50/51 provided for the establishment of procedures for managing the effects of sanctions on third States, it did not solve the problem itself. In the current context of economic globalization and interdependence, it was more important than ever to exhaust all political and diplomatic means of resolving serious situations before resorting to the imposition of sanctions. In that regard, the Russian Federation's proposal (A/51/33, para. 42) deserved careful consideration.

38. With respect to the proposals concerning the Trusteeship Council, her Government felt that the Council's achievements were a source of pride for the Organization. However, the Council's success in attaining its objectives meant

that it was no longer needed and should be abolished, especially since the Organization was undergoing a process of reform and rationalization. Nonetheless, in view of the difficulty of amending the Charter, the decision to abolish the Council should be taken together with other decisions to amend the Charter.

39. Lastly, she noted the importance of the Repertory of Practice of United Nations Organs and the Repertoire of the Practice of the Security Council, and expressed the hope that efforts would be made to update them.

40. Mr. GRAY (Australia) said that his delegation, along with the Nordic countries and other delegations, had studied the issue of sanctions as a tool for the peaceful settlement of disputes. He agreed that steps must be taken to minimize the burden of sanctions regimes on specially affected States, but had reservations about some of the proposals put forward, such as the establishment of a trust fund, which did not seem desirable or viable in the light of the Organization's financial difficulties. Efforts should focus not on establishing new practices and procedures, but on improving existing ones, particularly with respect to the flow of information to and from affected States.

41. He welcomed the steps taken pursuant to General Assembly resolution 50/51 to develop expertise within the Secretariat for analysing the effects of sanctions. He wondered whether the Special Committee should continue to consider sanctions regimes in general, when other forums had been established for that purpose, such as the sanctions subgroup of the Informal Open-ended Working Group on An Agenda for Peace. To avoid duplication of effort and inconsistencies of approach, the Special Committee should focus on the question of assistance to third States affected by the application of sanctions and the implementation of General Assembly resolution 50/51. He welcomed the decision to open the Special Committee to all States Members of the United Nations, and hoped that it would focus on issues which were within its mandate and on which it could be expected to reach a consensus.

42. Mr. POUKRE-KONO (Central African Republic) also welcomed the decision to open the Special Committee to all Member States. That initiative reflected the spirit of consensus which had always prevailed in the Special Committee, and he hoped that a similar initiative would be taken with respect to the United Nations Commission on International Trade Law (UNCITRAL).

43. While third States affected by the application of sanctions should be adequately compensated, it was especially important to take preventive measures. The Security Council and its sanctions committees should objectively analyse the factors at stake and should pursue their efforts to increase the effectiveness and transparency of their work. The establishment of a mechanism through which the Security Council could consult with affected third States, and other departments of the United Nations should help it to address requests for compensation. The case-by-case approach seemed to be the best method of dealing with the different problems that arose in connection with the implementation of different sanctions regimes.

44. He appreciated the efforts made to continue to produce the Repertory of Practice of United Nations Organs and the Repertoire of the Practice of the

Security Council despite financial and administrative difficulties. The proposals concerning the Trusteeship Council should be studied further, as should the ideas contained in the Russian Federation's working paper on the implementation of Article 50 of the Charter, such as the concept of "humanitarian limits". He also welcomed the proposals of the Libyan Arab Jamahiriya and Cuba on the Organization's role in maintaining international peace and security, and that of Sierra Leone on the settlement of disputes between States. The Special Committee should become more deeply involved in the process of reforming the United Nations system, but should confine itself strictly to the legal aspects of the relevant issues.

The meeting was suspended at 11.35 a.m. and resumed at 11.45 a.m.

AGENDA ITEM 120: HUMAN RESOURCES MANAGEMENT

Reform of the internal system of justice in the United Nations Secretariat

45. The CHAIRMAN recalled that, in its resolution 50/240, the General Assembly had invited the Sixth Committee to examine, as a matter of priority, at the beginning of the fifty-first session of the General Assembly, the legal implications of the proposals of the Secretary-General contained in his reports on the reform of the internal system of justice in the United Nations Secretariat.

46. Mr. CONNOR (Under-Secretary-General for Administration and Management), setting out the policy reasons for the proposed changes in the internal system of justice and the goals of those changes, said that there had long been widespread dissatisfaction with the system. The existing system had been established many years earlier for a much smaller staff and was not designed to accommodate the needs of almost 15,000 staff members who filed more than 100 appeals per year. It was slow, ponderous, complex and expensive in terms of staff resources. The General Assembly had repeatedly stressed the importance of a just, transparent, simple, impartial and efficient system, which the proposals before the Committee aimed to achieve.

47. The Secretary-General's proposal would encourage the early resolution of disputes and professionalize the consideration of appeal and disciplinary cases. Three measures were being proposed to promote the early reconciliation of disputes. First, managers, administrators and human resources officers would receive training to emphasize dialogue, positive communication, exchange of information and reconciliation of differences, with the aim of identifying the real concerns of staff and determining how they could be met within the applicable rules. Next, ombudsman mediation panels were planned at all major duty stations. Mediation was a very effective means of dispute resolution which was not widely used within the United Nations system. Those panels would mediate disagreements, grievances, and discrimination issues raised informally by staff members, under the guidance of a coordinator. Lastly, two additional posts for Review Officer would be established to provide substantive review of administrative decisions. Those officers would not be part of the Office of Human Resources Management, but would report to the Under-Secretary-General for Administration and Management. They would review the merits of each case, which would help to reduce the number of disputes actually reaching the appeals stage

and reduce delays later in the process by ensuring that relevant information had already been assembled before the formal submission of an appeal.

48. In an effort to professionalize the process, it was proposed that a Legal Officer should be appointed to the current Panel of Counsel. An arbitration board would replace the volunteer Joint Appeals Board. Thus, a small number of professional arbitrators would replace the hundreds of volunteers currently performing those duties. The required numbers of volunteers were no longer available to handle the volume and complexity of cases. Moreover, many volunteers did not have the requisite technical knowledge.

49. The Secretary-General believed that arbitration best met the needs of the Organization. It would provide a permanent structure for dealing with all appeals and would eliminate the need to take regular staff away from their duties in executing the work programmes mandated by the General Assembly. The arbitrators would be independent, rather than staff members subject to the authority of the Secretary-General, thereby avoiding any conflict of interest. The Joint Disciplinary Committee would be replaced by a disciplinary board in both New York and Geneva, and the chairpersons of the arbitration boards would also chair the new boards to ensure that professionals experienced in evaluating evidence would preside. The other members of the panels would be staff members selected on the basis of their fairness, impartiality and ability to understand the technical aspects of the cases. The Secretary-General had also proposed that a full-time Legal Officer should be appointed to serve full-time on the Panel of Counsel, and should be available to advise staff members.

50. The Secretary-General had submitted his reform proposals before the current budgetary restrictions had been imposed. He had already introduced a limited number of measures which were within his authority but did not entail additional resources. For example, many managers had received training to develop their skills in conflict resolution, and the Staff Rules would shortly be amended to encourage reconciliation in the context of the Joint Appeals Board. In addition, a small claims procedure for claims of less than $1,500 had been implemented. The Joint Appeals Board in New York had amended its rules of procedure to accommodate that change, and it was hoped that the Boards at other duty stations would follow suit.

51. Mr. MAZILU (Romania) said that the Secretary-General's objectives of facilitating earlier resolution of disputes and professionalizing the membership of appeals and disciplinary panels were fully justified. New efforts must be made to develop a management culture that encouraged staff members to make their maximum contribution towards effectiveness and efficiency. The main goal of the reform process should be the promotion of a fair and efficient internal justice system in the Secretariat by guaranteeing early reconciliation and resolution of disputes in a collegial atmosphere.

52. There were divergent views, however, regarding the ways and means to achieve those objectives, in particular the proposal to replace the existing Joint Appeals Board by an arbitration board. The independence of the arbitrators was one of the main problems. Doubts had been expressed about their ability to remain independent if they were recruited and paid by the United Nations Secretariat. His delegation supported the view expressed by the

Advisory Committee on Administrative and Budgetary Questions (ACABQ) that the selection process should ensure that the arbitrators were not subject to any form of control by staff in the exercise of their functions, in order to eliminate the perennial problem of conflict of interest.

53. Another major problem area was adequate legal representation for staff members. In order to maintain staff confidence in the arbitration process, the principle of staff-management parity would have to be maintained. His delegation shared the view that it was essential for appellants to have similar representation. The concern expressed by the Staff Union that, currently, too many staff members went through the appeals process without the effective assistance of counsel because too few were available could not be underestimated. The fair and efficient resolution of disputes would require the strengthening of the Office of the Coordinator of the Panel of Counsel.

54. His delegation supported the Secretary-Generals proposal to replace the Joint Disciplinary Committee by a disciplinary board. From a legal standpoint, the powers of such a board were consistent with the provisions of article X of the Staff Regulations. He therefore endorsed the proposal that the disciplinary board's statute should stipulate that it had jurisdiction to hear charges brought by the Secretary-General and appeals by former staff members, to recommend the imposition of one or more disciplinary measures or to drop the charges, and to recommend that the Secretary-General's decision should be maintained, rescinded or revised. Such powers were also consistent with the Charter, which made the Secretary-General responsible for ensuring that the staff met the highest standards of conduct.

55. In the light of those proposals, the appropriate changes should be made in the Statute of the United Nations Administrative Tribunal. There was a need to improve the entire internal system of justice in the United Nations Secretariat, including the activity of the Tribunal.

56. While his delegation was not in favour of postponing full implementation of the reform, it agreed that a fair and efficient resolution of each case must be guaranteed. The early resolution of employment disputes was essential to the new management culture in the Secretariat. The more stringent demands resulting from streamlining and staff shortages resulting from mission assignments meant that staff members would not longer be able to volunteer their time to the extent required for an efficient disposition of the cases. The professionalization of the internal system of justice would ensure greater efficiency, not only of the system of justice itself, but the Organization's overall activity.

57. Mrs. ESCARAMEIA (Portugal) said that arbitration was normally binding and voluntary, and the choice of arbitrator was made by both parties. In the Secretary-General's proposal, arbitration was also voluntary and binding, but how the arbitrator would be chosen remained unclear. In order to foster confidence, both parties must believe that the arbitrator was truly independent, and therefore the selection procedure must ensure that there was no perception that the arbitrator was controlled by the Administration. She would welcome clarification of the selection procedure. She also wished to know the duration

of the sessions of the proposed arbitration board, which was not mentioned in the proposals.

58. With regard to the Administrative Tribunal, a review of its powers and functions was needed.

59. Mr. CONNOR (Under-Secretary-General for Administration and Management) said that the staff would be fully consulted on the composition of the arbitral group and would have a voice in the selection process. For the sake of consistency, once an arbitral group had been formed, it would remain together; the process of searching repeatedly for arbitrators would be self-defeating. With regard to the duration of its sessions, it was envisaged that the arbitration board would meet for 10 weeks in New York and 6 weeks in Geneva per year.

60. Mr. ZACKLIN (Office of Legal Affairs) said that the Office of Legal Affairs viewed the independence of the arbitrators as a matter of fundamental importance; it intended that staff should be consulted at all stages of the selection process. He agreed with the representative of Portugal that the arbitrators must not only be independent, but they should be seen to be independent by the staff and Administration.

61. Mr. LEGAL (France) said that proposals regarding arbitration seemed to run counter to the current practice of the United Nations and many of its Member States for the settlement of disputes. He would like more information on the legal foundations for the proposal and on the other options that had been explored. It seemed to him that the entire system of staff representation on arbitration panels was being discarded solely because of excessive delays. Perhaps consideration should be given to making a greater investment in the task of staff representation by providing training and recognition of those duties as a useful contribution to the goals of the Organization, rather than giving those duties to professionals who were assumed to be more competent.

62. In the light of the responses to the proposals received from ACABQ, the Administrative Tribunal, the Staff Union and the Fifth Committee, among others, he wondered if the current proposals reflected those comments and criticisms.

63. Mr. CONNOR (Under-Secretary-General for Administration and Management) said that the genesis of the proposed reform was the widespread feeling that the time had come to change a system with which both staff and Administration were unhappy. Professionalization of the system was an important objective which had the support of the Staff Union. In formulating his proposals, the Secretary-General had sought to balance the concerns of all the parties involved. He therefore regretted that the Staff Union had changed its position after it had welcomed the Secretary-General's earlier report. The Secretary-General nevertheless intended to go forward with the current proposals.

64. Mr. WELBERTS (Germany) sought confirmation of his understanding that it was for an individual staff member to decide whether to have recourse to the proposed ombudsman panels or to start the review process immediately. He would also welcome clarification of the status of the members of the proposed disciplinary board.

65. Mr. CONNOR (Under-Secretary-General for Administration and Management) said that staff members would have a choice. The proposed ombudsman panels should be particularly welcome, since there was currently no reconciliation process, and it was important to make such a facility available to staff. The Chairman of the disciplinary board, unlike its members, would be a professional. The proposed arbitrators would be United Nations officials but would not come under the jurisdiction of the Secretary-General. In other words, their status would be akin to that of the Chairman of the Advisory Committee on Administrative and Budgetary Questions.

66. Mrs. FERNÁNDEZ de GURMENDI (Argentina) wondered whether the centralization of the appeals process in New York and Geneva would really prevent delays in the hearing of appeals. It would be helpful if statistics could be made available on the number of Joint Appeals Boards in operation under the current decentralized system of justice.

67. Mr. CONNOR (Under-Secretary-General for Administration and Management) said that one of the main reasons for delays was the difficulty in securing the services of panel members. Staff members rightly believed that such service did nothing to enhance their career prospects. The problem was particularly acute at duty stations away from Headquarters, which were understaffed. It was therefore not a question of decentralization versus centralization; what was important was to have a ready source of panellists so that the process could be accelerated and its efficiency enhanced.

68. Ms. PROIDL (Austria) asked to whom staff in Vienna should address their appeals and who would be responsible for their travel expenses.

69. Mr. CONNOR (Under-Secretary-General for Administration and Management) said that staff in Vienna would address their appeals to the arbitration board in Geneva. Members of the board would travel to Vienna at the Organization's expense.

70. Ms. WONG (New Zealand) sought further clarification of the status of members of the proposed arbitration board and the type of contract they would have. With regard to the appointment of the board members in consultation with the staff, she wondered whether any thought had been given to a system in which management and staff would appoint equal numbers of members who would in turn appoint the remaining members. She would also welcome an explanation of why the proposed grounds for appeals by staff were so restricted.

71. Mr. CONNOR (Under-Secretary-General for Administration and Management) said that no distinction should be drawn between the expression "after consultations with the staff" and "in consultation with the staff". What was intended was that the staff should participate in the choice of arbitrators, who would be under contract for a fixed period of time.

72. Mr. ZACKLIN (Office of Legal Affairs) said that the appeals process must be viewed in the context of the overall reform of the Organization, the purpose of which was the streamlining of operations. Professionalization of the arbitration board would enable a larger number of cases to be processed. The current caseload of 120 cases a year was four to five times the caseload of 5 or

10 years previously. The reduction of the case-load therefore justified the limitations placed on the grounds for appeal by staff.

73. Ms. TANO (Côte d'Ivoire) asked for further information on the legal sources on which the proposed reforms were based. She would also welcome clarification of the distinction between the proposed disciplinary procedures and the dispute settlement procedures.

74. Mr. CONNOR (Under-Secretary-General for Administration and Management) said that the proposals for reform of the internal system of justice had simply evolved from the discussions in the Staff Committee and did not represent the cloning of any particular system. The reforms were aimed at developing a system with which both staff and management could feel comfortable. The proposed disciplinary board would be composed of the chairperson of the arbitration board and two staff members, and would make recommendations to the Secretary-General.

75. Mr. ZACKLIN (Office of Legal Affairs) said that it was important for the operation of the new disciplinary board to respect the Secretary-General's authority in matters related to the disciplining of staff.

76. Mr. HAYES (Ireland) asked whether the members of the arbitration board would in fact be appointed by agreement between the Administration and staff. He also wondered whether the jurisdiction of the Administrative Tribunal would be included in the reform process. He noted, finally, that delays by both sides in responding to requests for additional information was a major reason for delays in the appeals process. He wondered whether consideration had been given to that factor and, if so, what measures had been proposed to deal with it.

77. Mr. CONNOR (Under-Secretary-General for Administration and Management) said that the staff would be included in the review of the qualifications of potential arbitrators and a genuine effort would be made to accommodate its views. Indeed, it would be foolish for the Secretary-General to proceed with an appointment if the staff was concerned about the candidate's qualifications. Nevertheless, the Secretary-General would have the final word in such appointments. With respect to the Administrative Tribunal, the only area of change would be the binding nature of the arbitration.

78. Mr. ZACKLIN (Office of Legal Affairs) explained that no change was envisaged in the working of the Administrative Tribunal. If the package of reforms was approved, however, there would of course be consequential changes in the Tribunal's Statute.

79. Mr. SULAIMAN (Syrian Arab Republic) drew attention to paragraph 39 of the Advisory Committee's report (A/50/7/Add.8) and asked what action was being taken by management to avoid misunderstandings between staff and their supervisors, who were sometimes to blame. He would welcome clarification of the Administration's position on proposals related to the early reconciliation and resolution of disputes aimed at minimizing the actual number of matters referred to formal proceedings. Finally, he wished to know what alternative reforms of the internal justice system had been considered by the Secretary-General.

80. Mr. CONNOR (Under-Secretary-General for Administration and Management) said that considerable progress had been made recently in reducing delays caused by the late submission of requested documentation and the failure to follow proper procedures. With the support of the Staff Union, a review of the procedures in respect of small claims had already been carried out. It was now proposed to expand that review to include the actions of the Administration and to simplify the rules currently followed by the Administration. The main focus of the reform, however, was to professionalize the justice system and to increase the resources available to the staff in order to ensure that the system was perceived by staff as one in which they had a fair stake.

81. Although he looked forward to seeing the ombudsman panels in place, their cost must be offset by savings elsewhere in the system. He did not think that increased resources should be devoted to additional layers of review. The current system of justice was already creaking and had become unresponsive to needs largely because the staff was already overburdened and had little incentive to participate in the system.

82. Ms. [illegible] (Mexico) said that it was important for staff to have competent legal counsel in whom they had confidence. She therefore wondered why it was not considered prudent, in the context of the current reform, to allow staff the benefit of outside legal counsel.

83. Mr. [illegible] (Under-Secretary-General for Administration and Management) said that the Administration was wary of the difficulty in determining the exact cost of outside lawyers. It sought a more modest solution in the professionalization of the system.

84. Mr. [illegible] (Syrian Arab Republic) said that the replies given to his questions were incomplete, and he would welcome assurances that the clarifications sought would be provided at a later meeting.

85. The CHAIRMAN said that the request of the representative of the Syrian Arab Republic had been duly noted and the clarifications sought would be given the following day.

The meeting rose at 1.10 p.m.